

**IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OKLAHOMA**

In re:)	
)	
JOSEPH DEWAYNE CUDE and)	
SARAH ANN CUDE,)	
)	Case No. 23-10625-M
Debtors.)	(Chapter 7)

JOSEPH DEWAYNE CUDE and)	
SARAH ANN CUDE,)	
)	
Plaintiffs,)	
)	
vs.)	Adversary No. 23-01016-M
)	
HIGHER EDUCATION LOAN)	
AUTHORITY OF THE STATE OF)	
MISSOURI, a/k/a MOHELA, et al.,)	
)	
Defendants,)	
)	
And,)	
)	
EDUCATIONAL CREDIT)	
MANAGEMENT CORPORATION,)	
)	
Intervenor.)	

**ANSWER OF EDUCATIONAL
CREDIT MANAGEMENT CORPORATION**

Intervenor Defendant, Educational Credit Management Corporation, a non-profit corporation ("ECMC"), for its Answer to the Complaint of the Plaintiffs, Joseph Dewayne Cude and Sarah Ann Cude ("Complaint," "Joseph Cude," "Sarah Cude," or collectively, where appropriate, "Plaintiffs"), alleges and states as follows:

1. Except as expressly admitted, qualified, or explained herein, ECMC denies each and every allegation of the Complaint.

2. To the extent appropriate under Rule 7008, F.R.Bankr.P., ECMC consents to the entry of final orders or judgments by this Bankruptcy Court.

3. Plaintiffs' Preliminary Statement does not contain allegations of fact. To the extent the same implies Plaintiffs are entitled to the relief outlined therein, ECMC is without sufficient information, knowledge or belief to admit or deny same and to the extent a response is required, denies same and demands strict proof thereof.

4. On information and belief, ECMC admits the allegations of Paragraphs 1 through 5 of the Complaint.

5. ECMC is without sufficient information, knowledge or belief to admit or deny the allegations of Paragraphs 6 through 14, inclusive, of the Complaint, and to the extent a response is required, denies the same and demands strict proof thereof.

6. With further regard to the allegations contained in the Complaint, ECMC states (a) it is the guarantor of education loan notes identified below executed by Plaintiffs; (b) it holds claims for such student loans under the Federal Family Educational Loan Program ("FFELP"), formerly known as the Guaranteed Student Loan Program, established by the *Higher Education Act of 1965, Pub. L. No. 89-329, Nov. 8, 1965, Tit. IV, 79 Stat. 1219 (20 U.S.C. §§ 1071-1087-4)*; (c) ECMC is a private non-profit guaranty agency under the FFELP; (d) the loans are reinsured by the Department of Education of the United States ("ED"), whose regulations concerning the FFELP are found at *34 C.F.R. §§ 682.100 et seq.*; and (g) the unpaid principal and interest balances of the student loans hereinafter identified are as set forth herein.

JOSEPH CUDE

7. Joseph Cude was indebted to DBTCA ELT NAVIENT & SLM TRUSTS (“Navient”) on the date he initiated this adversary proceeding as set forth in Exhibit “A” attached hereto, which is adopted and incorporated herein by reference as if fully set forth. The promissory notes referenced in Exhibit “A” are Federal Stafford notes, which were guaranteed by the State of Oklahoma, *ex rel.* the Oklahoma College Assistance Program (“OCAP”), and is now guaranteed by ECMC. Navient Solutions, LLC, was the loan servicing agency.

8. After the filing of the adversary complaint, pursuant to Federal Regulations and the loan’s guaranty, Navient filed a claim with the loan’s guarantor OCAP. 34 CFR 682.402(f)(5)(i)(c). OCAP, who already held a contingent interest in Joseph Cude’s loans as its guarantor, paid the bankruptcy claim and all right, title, and interest transferred to OCAP. By agreement, OCAP assigns its loans that are subject to an adversary proceeding to ECMC to defend. OCAP assigned all right, title and interest in Joseph Cude’s loans to ECMC as noted below, and ECMC holds all right, title and interest thereto as its current guarantor under the FFELP.

9. Joseph Cude’s loans evidence education loans made to Joseph Cude under a program funded or insured by a governmental unit, the FFELP.

10. OCAP assigned Joseph Cude’s loans to ECMC.

11. The unpaid principal and interest balance due under Joseph Cude’s loans was the sum of \$22,706.89, as of November 1, 2023, with interest thereafter accruing as aforesaid.

12. Joseph Cude’s loans are not in default.

SARA CUDE

13. Sara Cude was indebted to Missouri Higher Education Loan Authority (“MOHELA”) and Wells Fargo ELT for Navient Education Loan Trusts (“Wells Fargo”) on the date she initiated this adversary proceeding as set forth in Exhibit “B” attached hereto, which is adopted and incorporated herein by reference as if fully set forth. The promissory notes referenced in Exhibit “B” are Federal Stafford Loan promissory notes, which were guaranteed by the Missouri Department of Higher Education and Workforce Development (“Missouri Dept. of Ed”) and Ascendium Education Solutions, Inc. (“Ascendium”).

14. After the filing of the adversary complaint, pursuant to Federal Regulations and the loan’s guaranty, MOHELA and Wells Fargo filed claims with the loans’ guarantors, Missouri Higher Ed. and Ascendium, respectively. 34 CFR 682.402(f)(5)(i)(c). Missouri Higher Ed and Ascendium, who already held contingent interests in Sara Cude’s loans as their guarantors, paid the bankruptcy claims and all right, title, and interest transferred to Missouri Higher Ed. and Ascendium. By agreement, Missouri Higher Ed and Ascendium assign their loans that are subject to an adversary proceeding to ECMC to defend. Missouri Higher Ed and Ascendium assigned all right, title and interest in Sara Cude’s loans to ECMC as noted below, and ECMC holds all right, title and interest thereto as their guarantor.

15. Sara Cude’s loans evidence education loans made to Sara Cude under a program funded or insured by a governmental unit, the FFELP.

16. Missouri Higher Ed and Ascendium assigned Sara Cude loans to ECMC

17. The unpaid principal and interest balance due under Sara Cude’s loans was the combined sum of \$51,091.47, as of November 7, 2023, with interest thereafter accruing as set forth in Exhibit “B.”

18. Sara Cude's loans are not in default.

SECOND DEFENSE

19. Plaintiffs fail to state a cause of action against ECMC for which Plaintiffs' obligations are either dischargeable pursuant to *Tit. 11, U.S.C., § 523(a)(8)*, or qualify for exclusion therefrom.

PRAYER FOR RELIEF

WHEREFORE, ECMC prays for relief as follows:

- A. Dismissing the Plaintiffs' Complaint with prejudice; and,
- B. Enter judgment determining ECMC's claims to be nondischargeable pursuant to *11 U.S.C. § 523 (a)(8)*; and,
- C. Such other and further relief as the Court may deem just and proper.

s/ Mac D. Finlayson

MAC D. FINLAYSON, OBA #2921

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**ATTORNEY FOR INTERVENOR,
EDUCATIONAL CREDIT MANAGEMENT
CORPORATION**

CERTIFICATE OF ELECTRONIC SERVICE

The undersigned certifies on the date signified by the Notice of Electronic Filing accompanying this pleading, he served the all persons who have entered an appearance herein through the Court's CM/ECF protocols.

s/ Mac D. Finlayson

Mac D. Finlayson, OBA #2921

Person Id 20382940 SSN xxx-xx-2170 Borrower JOSEPH D. CUDE

ECMC

Date of Birth xx/xx/1978 Date Printed 11/02/2023

Projected Balance as of 11/01/2023

LN	Principal Balance	Interest Balance	Fees and Costs Balance	Total Balance	Interest Rate	Interest Rate Type	Per Diem
01	\$4,365.74	\$5.57	\$0.00	\$4,371.31	7.76%	Variable	\$0.93
02	\$1,669.49	\$2.13	\$0.00	\$1,671.62	7.76%	Variable	\$0.35
03	\$4,365.73	\$5.57	\$0.00	\$4,371.30	7.76%	Variable	\$0.93
04	\$7,478.98	\$9.53	\$0.00	\$7,488.51	7.76%	Variable	\$1.59
05	\$2,183.62	\$2.78	\$0.00	\$2,186.40	7.76%	Variable	\$0.46
06	\$2,614.42	\$3.33	\$0.00	\$2,617.75	7.76%	Variable	\$0.56
	\$22,677.98	\$28.91	\$0.00	\$22,706.89			\$4.82

Loan Details

LN	Loan Type	Total Disb Amt	Disb Dt	Claim Type	Claim Paid Date	Transfer Date
01	Stafford_Sub	\$2,625.00	04/15/2004	Bankruptcy	10/26/2023	11/02/2023
02	Stafford_Unsub	\$880.00	04/15/2004	Bankruptcy	10/26/2023	11/02/2023
03	Stafford_Sub	\$2,625.00	01/20/2005	Bankruptcy	10/26/2023	11/02/2023
04	Stafford_Unsub	\$4,000.00	01/20/2005	Bankruptcy	10/26/2023	11/02/2023
05	Stafford_Sub	\$1,313.00	09/08/2005	Bankruptcy	10/26/2023	11/02/2023
06	Stafford_Unsub	\$1,434.00	09/08/2005	Bankruptcy	10/26/2023	11/02/2023
		\$12,877.00				

Loan Histories

LN	Transferring Agency	Current Lender	Current Servicer	Original Guarantor	Original Lender	Original School
01	OKLAHOMA COLLEGE ASSISTANCE PROGRAM	DBTCA ELT NAVIENT & SLM TRUSTS	NAVIENT SOLUTIONS LLC	OKLAHOMA COLLEGE ASSISTANCE PROGRAM	BANK SNB	NORTHERN OKLAHOMA COLLEG
02	OKLAHOMA COLLEGE ASSISTANCE PROGRAM	DBTCA ELT NAVIENT & SLM TRUSTS	NAVIENT SOLUTIONS LLC	OKLAHOMA COLLEGE ASSISTANCE PROGRAM	BANK SNB	NORTHERN OKLAHOMA COLLEG
03	OKLAHOMA COLLEGE ASSISTANCE PROGRAM	DBTCA ELT NAVIENT & SLM TRUSTS	NAVIENT SOLUTIONS LLC	OKLAHOMA COLLEGE ASSISTANCE PROGRAM	BANK SNB	NORTHERN OKLAHOMA COLLEG
04	OKLAHOMA COLLEGE ASSISTANCE PROGRAM	DBTCA ELT NAVIENT & SLM TRUSTS	NAVIENT SOLUTIONS LLC	OKLAHOMA COLLEGE ASSISTANCE PROGRAM	BANK SNB	NORTHERN OKLAHOMA COLLEG
05	OKLAHOMA COLLEGE ASSISTANCE PROGRAM	DBTCA ELT NAVIENT & SLM TRUSTS	NAVIENT SOLUTIONS LLC	OKLAHOMA COLLEGE ASSISTANCE PROGRAM	BANK SNB	NORTHERN OKLAHOMA COLLEG
06	OKLAHOMA COLLEGE ASSISTANCE PROGRAM	DBTCA ELT NAVIENT & SLM TRUSTS	NAVIENT SOLUTIONS LLC	OKLAHOMA COLLEGE ASSISTANCE PROGRAM	BANK SNB	NORTHERN OKLAHOMA COLLEG

Projected Balance as of 11/07/2023

LN	Principal Balance	Interest Balance	Fees and Costs Balance	Total Balance	Interest Rate	Interest Rate Type	Per Diem
01	\$2,991.33	\$8.11	\$0.00	\$2,999.44	8.25%	Variable	\$0.68
02	\$1,733.65	\$4.42	\$0.00	\$1,738.07	7.76%	Variable	\$0.37
07	\$10,275.69	\$21.04	\$0.00	\$10,296.73	6.8%	Fixed	\$1.91
08	\$1,285.01	\$2.63	\$0.00	\$1,287.64	6.8%	Fixed	\$0.24
09	\$12,479.94	\$25.55	\$0.00	\$12,505.49	6.8%	Fixed	\$2.32
10	\$22,218.59	\$45.51	\$0.00	\$22,264.10	6.8%	Fixed	\$4.14
	\$50,984.21	\$107.26	\$0.00	\$51,091.47			\$9.66

Loan Details

LN	Loan Type	Total Disb Amt	Disb Dt	Claim Type	Claim Paid Date	Transfer Date
01	Stafford Sub	\$1,661.00	06/23/1998	Bankruptcy	10/26/2023	N/A
02	Stafford Sub	\$1,073.00	08/20/1998	Bankruptcy	10/26/2023	N/A
03	Stafford Sub	\$0.00	N/A	N/A	N/A	N/A
04	Stafford Unsub	\$0.00	N/A	N/A	N/A	N/A
05	Stafford Sub	\$0.00	N/A	N/A	N/A	N/A
06	Stafford Unsub	\$0.00	N/A	N/A	N/A	N/A
07	Stafford Sub	\$4,666.00	05/10/2007	Bankruptcy	10/26/2023	10/30/2023
08	Stafford Unsub	\$434.00	05/10/2007	Bankruptcy	10/26/2023	10/30/2023
09	Stafford Sub	\$5,709.49	11/15/2007	Bankruptcy	10/26/2023	10/30/2023
10	Stafford Unsub	\$7,865.95	11/15/2007	Bankruptcy	10/26/2023	10/30/2023
		\$21,409.44				

Loan Histories

LN	Transferring Agency	Current Lender	Current Servicer	Original Guarantor	Original Lender	Original School
01	N/A	MOHELA	MOHELA	MISSOURI DEPT OF HIGHER ED & WORKFORCE DEVELOPMENT	US BANK NA	MISSOURI WESTERN COLLEGE
02	N/A	MOHELA	MOHELA	MISSOURI DEPT OF HIGHER ED & WORKFORCE DEVELOPMENT	US BANK NA	MISSOURI WESTERN COLLEGE
03	N/A	US BANK NA	MOHELA	MISSOURI DEPT OF HIGHER ED & WORKFORCE DEVELOPMENT	US BANK NA	ORAL ROBERTS UNIVERSITY
04	N/A	US BANK NA	MOHELA	MISSOURI DEPT OF HIGHER ED & WORKFORCE DEVELOPMENT	US BANK NA	ORAL ROBERTS UNIVERSITY
05	N/A	US BANK NA	MOHELA	MISSOURI DEPT OF HIGHER ED & WORKFORCE DEVELOPMENT	US BANK NA	ORAL ROBERTS UNIVERSITY

LN	Transferring Agency	Current Lender	Current Servicer	Original Guarantor	Original Lender	Original School
06	N/A	US BANK NA	MOHELA	MISSOURI DEPT OF HIGHER ED & WORKFORCE DEVELOPMENT	US BANK NA	ORAL ROBERTS UNIVERSITY
07	ASCENDIUM EDUCATION SOLUTIONS, INC.	WELLS FARGO ELT FOR NAVIENT EDUCATION LOAN TRUSTS	N/A	ASCENDIUM EDUCATION SOLUTIONS, INC.	BONY MELLON ELT NELLIE MAE	LIBERTY UNIVERSITY
08	ASCENDIUM EDUCATION SOLUTIONS, INC.	WELLS FARGO ELT FOR NAVIENT EDUCATION LOAN TRUSTS	N/A	ASCENDIUM EDUCATION SOLUTIONS, INC.	BONY MELLON ELT NELLIE MAE	LIBERTY UNIVERSITY
09	ASCENDIUM EDUCATION SOLUTIONS, INC.	DBTCA ELT NAVIENT & SLM TRUSTS	N/A	ASCENDIUM EDUCATION SOLUTIONS, INC.	BONY MELLON ELT NELLIE MAE	LIBERTY UNIVERSITY
10	ASCENDIUM EDUCATION SOLUTIONS, INC.	DBTCA ELT NAVIENT & SLM TRUSTS	N/A	ASCENDIUM EDUCATION SOLUTIONS, INC.	BONY MELLON ELT NELLIE MAE	LIBERTY UNIVERSITY